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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/671,761	09/26/2000	BRADLEY S. MASTERS	K35A0657	4727

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EXAMINER

NGUYEN, HUY THANH

ART UNIT PAPER NUMBER

2616

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/671,761

Applicant(s)

MASTERS ET AL.

Examiner

HUY T. NGUYEN

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-5 and 8-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Ellis et al (2004/0117831).

Regarding claim 1, Ellis teaches a method (Figs. 1,, 5, 7) of generating a menu representing a viewing sequence of display contents during a viewer's viewing session, comprising:

recording first video data associated with a first plurality of display contents using a preference engine to select the display content (sections 0102-0103);

selectively recording second video data associated with a second plurality of display contents upon a viewer selecting the display contents (sections 0102-0103, 0114);

defining a viewing session Fig. 5);

defining a third plurality of display contents based upon available broadcast display contents during the viewing session and selected based upon the preference engine; and

displaying a menu of viewing choices, wherein the menu comprises at least one of the first plurality of display contents, at least one of the second plurality of display contents and at least one of the third plurality of display contents (0114 , 0019-0021.

Regarding claim 2, Ellis further teach the method of Claim 1, wherein the viewing session has a duration of about four hours (0021,0126-0127)).

Regarding claim 3, Ellis further teaches the method of Claim 1, wherein the viewing session is defined as having a predetermined length upon activation of a video system (0021).

Regarding claim 4, Ellis further teaches the method of Claim 1, further comprising receiving viewer input to select from the menu of viewing choices of one or more display contents for the viewing session to define a viewing sequence for display on a display (0114).

Regarding claim 5, Ellis further teaches the method of Claim 1, further comprising automatically changing channels during the viewing session, wherein the channels provide the broadcast display contents (section 0120).

Regarding claim 8, Ellis further teach the method of Claim 4, further comprising analyzing the viewing sequence for time gaps and filling the time gaps with display content using the preference engine to select the display content (section 0136).

Regarding claim 9, Ellis further teach the method of Claim 1, further comprising determining whether a local source for video display content is connected (sections 0104,0110).

Regarding claim 10, Ellis further teach the method of Claim 9, further comprising scanning the local source to obtain content Information.(0102,0104,0111)

Regarding claim 11, Ellis further teach the method of Claim 10, further comprising adding the content Information as a fourth plurality to the menu of viewing choices (Fig. 5).

Regarding claim 12, Ellis teaches a video system (Fig. 1) , comprising:
an input port configured to receive display contents including a plurality of broadcast display contents;
an output port configured to couple to a video display;
a preference engine coupled to the input port, the preference engine configured to track viewer selections of the broadcast display contents and to create a viewer profile (0167);
a storage device coupled to the input port, the output port and the preference engine, the storage device configured to record first video data associated with first plurality of display contents according to the viewer profile and to record second video data associated with a second plurality of display contents upon a viewer selecting the display contents (sections 0202-0203); and

a management module coupled to the preference engine and the storage device, the management module configured to define a third plurality of display contents based upon the available broadcast display contents for a viewing session and based upon the viewer profile, to create a menu of viewing choices comprising at least one of the first plurality of display contents, at least one of the second plurality of display contents and at least one of the third plurality of display contents, the menu being displayable on the video display from which a viewer can select a sequence of display contents for the viewing session (Fig. 5, section 0120-0122,0124-0126,0136)).

Regarding claim 13, Ellis further teaches the video system of Claim 12, further comprising a set top box coupled to the input port and configured to receive display contents section 0102, Fig. 1).

Regard claim 14, Ellis further teaches the video system of claim 13, wherein the preference engine, the management module and the storage device are included in a video control device providing for a functionality of a personal video recorder section 0102, Fig. 1).

Regarding claim 15, Ellis further teaches the video system of Claim 12, further comprising a local source for display content in communication with the preference engine and the management module, wherein the management module is configured to scan the local source to obtain content information (section 0114).

Regarding claim 16, Ellis further teaches the video system of Claim 12, wherein the management module is configured to initiate automatic channel changes (0202-0203).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al (2004/0117831) in view of Nagano (6,240,240).

Regarding claims 6 and 7, Ellis fails to teach analyzing the viewing sequence for conflicts caused by display contents that at least partially overlap and the viewer intervention .

Nagano teaches analyzing a conflict of the viewing (Fig. 17, column 9). It would have been obvious to one of ordinary skill in the art to modify Ellis with Nagano by providing the apparatus of Ellis with a analyzing means as taught by Nagano for

analyzing the conflicts of viewing thereby enhancing the capacity of the apparatus of Ellis in correcting the error of viewing .

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T. NGUYEN whose telephone number is (571) 272-7378. The examiner can normally be reached on 8:30AM -6:00PM.

Art Unit: 2616

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on (571) 272-7950. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

H.N


HUY NGUYEN
PRIMARY EXAMINER